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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,377	12/31/2001	Wayne Clement Sigl	29245-5/KC12,657.3	6501
22827	7590	07/21/2004		
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			EXAMINER REICHL, KARIN M	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/037,377

Applicant(s)

SIGL, WAYNE CLEMENT

Examiner

Karin M. Reichle

Art Unit

3761

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 June 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1,5,8-11,13-15,19 and 22-25.

Claim(s) withdrawn from consideration: 4,12,18 and 26.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6/22/04.
10. ☐ Other: \_\_\_\_\_

*K.M. Reichle*

Karin M. Reichle  
Primary Examiner  
Art Unit: 3761

Continuation of 2. NOTE: Line 1 of subsection (d) of proposed claim 1 does not comply with 37 CFR 1.121, i.e. "extended" should be -- extending-- or the change to the language should be shown. The proposed abstract still does not comply with 37 CFR 1.121 effective 7-30-03 because replacement abstracts should be marked up to show any changes. The proposed changes to claim 11 raise new considerations under 35 USC 112, second paragraph, because the claim terminology "at least in part" includes all, but how can the surface be defined totally by the retainer and totally by the baffle?, how can the retainer cover at least a portion but the baffle define all of the surface as included by the claim? Contrary to Applicant's remarks, page 14, lines 7-11 of the parent application don't teach the claim language at all and the first full paragraph of that page recite the sanitary napkin being divided into equal portions, i.e. sections 32, 34, which portions have equal surface areas disposed toward the garment facing surface and the flap is sized to cover greater than about 25 percent of the surface area or, in other words, greater than about 25 percent of the area of one of the sections which section has a surface area of about 50% of the entire surface area of the garment facing surface. Therefore, the Examiner's comments with regard to the effective filing date are maintained. With regard to the remarks with respect to the prior art rejection, see paragraphs 11-14 of the FINAL which set forth the teachings and motivation of the prior art.